HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

A.O. No. 1204 of 2001
(Old No. 556/1978)

Krishna Devi

Vs

U.P. Forest Corporation & others

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 31.07.2004.

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

A.O. No. 1204 of 2001

(Old No. 556/1978)

Krishna Devi ..... Petitioner

Versus

U.P. Forest Corporation & others ..... Respondents

Sri Lokendra Dobhal, Advocate for the petitioner
Sri V.K. Bisht, Sr. Advocate assisted by Sri Anirudh Bhatt.

Dated: July 31, 2004

Hon. Rajesh Tandon J.

Heard the learned counsel for the parties at length.

This is an appeal against the judgment and order dated 4.8.1978 passed by the Motor Accident Claims Tribunal, Tehri Garhwal. Appellant Smt. Krishna Devi has preferred a claim petition before M.A.C.T. Tehri Garhwal along with application for condonation of delay under section 5 of Limitation Act. The accident was occurred on 6th June 1977 near village Nald in which vehicle of Van Nigam was involved. The claim petition was filed on 20.2.1978 obviously beyond a period of six months.

The ground for condonation as disclosed in the affidavit filed by Krishna Devi is that the Van Nigam had assured the father-in-law of the claimant that the compensation would be paid to the dependants of the deceased.

In view of the fact that by recent amendment in the Motor Vehicle Act, there is no limitation for filing of claim petition before the Claims Tribunal. Even at the relevant time when the accident had taken place there should be a justice-oriented approach and the claim petition ought not to have been rejected merely for a delay of less than a month. The Apex Court has held in (2001) 8 SCC 151, M.S. Grewal vs. Deep Chand Sood as under:

"Law Courts will lose their efficicacy if they cannot possibly respond to the need of the society-technicalities there might be many but the justice-oriented approach ought not to be thwarted on the basis of such technicality since technicality cannot and ought not to outweigh the course of justice."

In view of the aforesaid facts, the Claims Tribunal, Tehri Garhwal was not justified by rejecting the claim petition of the petitioner on the ground of delay.

The appeal is, therefore, allowed with costs. The impugned order dated 4.8.1978 passed by the Motor Accident Claims Tribunal, Tehri Garhwal is set aside. The Claims Tribunal is directed to decide the claim petition within three months after the receipt of the certified copy of this order.

Let the record of lower Court along with a copy of this order be sent to the M.A.C.T. concerned for compliance.

(Rajesh Tandon, J.)

Dated : 31.7.2004
*Dhyani